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February 2, 2022

By ECF and CronanNYSDChambers@nysd.uscourts.gov

Honorable John P. Cronan, USDJ
United States District Court
Southern District of New York
500 Pearl St., Room 1320
New York, NY 10007-1312

Re: Scales v. New York Hotel and Motel Trades Council, Local 6
S.D.N.Y. No. 21-cv-08142 - JPC

Dear Judge Cronan:

Plaintiff William Scales has filed a “Request for Attorney Appeal,” Doc. 22 and a Notice of Motion, Doc. 23, both dated February 1, 2022. This letter on behalf of defendant New York Hotel and Motel Trades Council, AFL-CIO (“Union”) responds briefly to both.

Notice of Motion (Doc. 23) – Mr. Scales appears to be requesting a clarification of the Union’s position on settlement and, absent settlement, discovery and trial. The steps in this motion were previously decided by the Court in its Order dated January 4, 2021, Doc. 16, copy attached. As stated in the Order, there is no basis to proceed to discovery, let alone trial, prior to determination of the Union’s motion to dismiss. This is especially true where, as here, the overbroad scope of Mr. Scales’ proposed discovery, including personal information of co-workers, confirms a search looking for a claim rather than a plausible claim. As to a settlement, the Union has fully stated and explained its position to Mr. Scales in my prior telephone discussions with him and emails to him, which I repeat herein. The Union attempted to persuade the Ace Hotel and the Industry Pension Plan to move the contributions made by the Hotel to the Industry Pension Plan attributable to Scales’ work hours from the Industry Pension Plan to the Hotel’s 401k plan as Mr. Scales desired. Both the Ace Hotel and the Industry Pension Plan, entities independent of the Union, declined. Accordingly, that attempt at settlement has been exhausted and does not exist. To the extent Mr. Scales wants the Union to pay him or a retirement plan the moneys he claims,

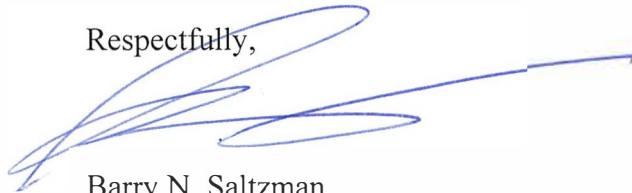
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the Union will not pay any settlement amounts on these claims which the Union believes are legally and factually baseless. See also Doc. 16, attached.

Request for Attorney Appeal (Doc. 22) – I write only to correct some of Mr. Scales' misstatements for the record, to the extent not addressed above in connection with the Notice of Motion. The Union continues to represent Mr. Scales at arbitration and is actively considering moving the arbitrator to reconsider his award adverse to Mr. Scales. In that context, Joseph Farelli, Esq., a partner specializing in arbitration cases, is pursuing leads provided by Mr. Scales in order to evaluate the propriety of a reconsideration motion before the arbitrator. Mr. Scales should cooperate with Mr. Farelli. As to the litigation, reports to the Court submitted by us jointly plus my separate emails and calls with Mr. Scales made clear at all times that the Union would attempt settlement along the lines he desired with the Ace Hotel and Industry Pension Plan, but failing that route, the Union would not pay Mr. Scales any settlement money and I would continue to represent the Union against his claim in this action.

Thank you, Your Honor, for your patience and consideration.

Respectfully,



Barry N. Saltzman

cc: William Scales (By email and next day delivery)
Jamie Maffeo, Esq.

Enc. The Court denies Mr. Scales's requests in his February 1, 2022 letter and motion. *See* Dkts. 22, 23. As to the letter at Docket Number 22, insofar as Mr. Scales asks the court to reconsider its order denying the request for counsel, *see* Dkt. 21, Mr. Scales has failed to put forward any additional arguments to show the existence of a meritorious claim. As to the motion at Docket Number 23, Mr. Scales has not persuaded the Court to reconsider its earlier order, *see* Dkt. 16, staying discovery. The Court also declines to order the Union to provide any more definite a statement of its views on settlement than it has provided in this letter.

The Clerk of the Court is respectfully directed to close the motion pending at Docket Number 23 and to mail a copy of this order to the *pro se* plaintiff.

SO ORDERED.

Date: February 2, 2022
New York, New York



JOHN P. CRONAN
United States District Judge